



STATE OF MISSOURI  
OFFICE OF ADMINISTRATION  
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)  
REQUEST FOR PROPOSAL (RFP)

AMENDMENT NO.: 001  
RFP NO.: B3Z07057  
TITLE: Medical Laboratory Services  
ISSUE DATE: 9/27/06

REQ NO.: NR 650 WES70000003  
BUYER: Stacia Dawson  
PHONE NO.: (573) 522-3052  
E-MAIL: stacia.dawson@oa.mo.gov

RETURN PROPOSAL NO LATER THAN: October 3, 2006 AT 2:00 PM CENTRAL TIME

MAILING INSTRUCTIONS: Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Delivered sealed proposals must be in DPMM office (301 W High Street, Room 630) by the return date and time.

RETURN PROPOSAL AND AMENDMENT(S) TO:

(U.S. Mail)

DPMM  
PO BOX 809  
JEFFERSON CITY MO 65102-0809

or

(Courier Service)

DPMM  
301 WEST HIGH STREET, ROOM 630  
JEFFERSON CITY MO 65101

CONTRACT PERIOD: Date of Award through One Year

DELIVER SUPPLIES/SERVICES FOB (Free On Board) DESTINATION TO THE FOLLOWING ADDRESS:

Western Missouri Mental Health Center  
1000 East 24th Street  
Kansas City, MO 64108-2620

The offeror hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all terms and conditions, requirements, and specifications of the original RFP as modified by this and any previously issued RFP amendments. The offeror should, as a matter of clarity and assurance, also sign and return all previously issued RFP amendment(s) and the original RFP document. The offeror agrees that the language of the original RFP as modified by this and any previously issued RFP amendments shall govern in the event of a conflict with his/her proposal. The offeror further agrees that upon receipt of an authorized purchase order from the Division of Purchasing and Materials Management or when a Notice of Award is signed and issued by an authorized official of the State of Missouri, a binding contract shall exist between the offeror and the State of Missouri.

SIGNATURE REQUIRED

DOING BUSINESS AS (DBA) NAME		LEGAL NAME OF ENTITY/INDIVIDUAL FILED WITH IRS FOR THIS TAX ID NO.	
MAILING ADDRESS		IRS FORM 1099 MAILING ADDRESS	
CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE	
CONTACT PERSON		EMAIL ADDRESS	
PHONE NUMBER		FAX NUMBER	
TAXPAYER ID NUMBER (TIN)	TAXPAYER ID (TIN) TYPE (CHECK ONE) ___ FEIN ___ SSN		VENDOR NUMBER (IF KNOWN)
VENDOR TAX FILING TYPE WITH IRS (CHECK ONE) (NOTE: LLC IS NOT A VALID TAX FILING TYPE.) ___ Corporation ___ Individual ___ State/Local Government ___ Partnership ___ Sole Proprietor ___ Other _____			
AUTHORIZED SIGNATURE		DATE	
PRINTED NAME		TITLE	

**Medical Laboratory Services**  
**Western Missouri Mental Health Center**

**Contract Period:**      Date of Award Through One Year

Prospective Offerors are hereby advised that the proposal receipt date has changed to October 3, 2006 2:00 p.m. in lieu of September 27, 2006 2:00 p.m.



STATE OF MISSOURI  
OFFICE OF ADMINISTRATION  
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)  
REQUEST FOR PROPOSAL (RFP)

RFP NO.: B3Z07057  
TITLE: Medical Laboratory Services  
ISSUE DATE: 9/8/06

REQ NO.: NR 650 WES70000003  
BUYER: Stacia Dawson  
PHONE NO.: (573) 522-3052  
E-MAIL: Stacia.Dawson@oa.mo.gov

Amendment #001 changed the proposal receipt date from September 27, 2006 to October 3, 2006

RETURN PROPOSAL NO LATER THAN: October 3, 2006 AT 2:00 PM CENTRAL TIME

**MAILING INSTRUCTIONS:** Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Delivered sealed proposals must be in DPMM office (301 W High Street, Room 630) by the return date and time.

**RETURN PROPOSAL TO:** (U.S. Mail) DPMM or (Courier Service) DPMM  
PO BOX 809 301 WEST HIGH STREET, RM 630  
JEFFERSON CITY MO 65102-0809 JEFFERSON CITY MO 65101

**CONTRACT PERIOD:** Date of Award Through One Year

**DELIVER SUPPLIES/SERVICES FOB (Free On Board) DESTINATION TO THE FOLLOWING ADDRESS:**

Western Missouri Mental Health Center  
1000 East 24th Street  
Kansas City, MO 64108-2620

The offeror hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Request for Proposal (Revised 02/10/06). The offeror further agrees that the language of this RFP shall govern in the event of a conflict with his/her proposal. The offeror further agrees that upon receipt of an authorized purchase order from the Division of Purchasing and Materials Management or when a Notice of Award is signed and issued by an authorized official of the State of Missouri, a binding contract shall exist between the offeror and the State of Missouri.

**SIGNATURE REQUIRED**

DOING BUSINESS AS (DBA) NAME		LEGAL NAME OF ENTITY/INDIVIDUAL FILED WITH IRS FOR THIS TAX ID NO.	
MAILING ADDRESS		IRS FORM 1099 MAILING ADDRESS	
CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE	

  

CONTACT PERSON		EMAIL ADDRESS	
PHONE NUMBER		FAX NUMBER	
TAXPAYER ID NUMBER (TIN)	TAXPAYER ID (TIN) TYPE (CHECK ONE) ___ FEIN ___ SSN	VENDOR NUMBER (IF KNOWN)	
VENDOR TAX FILING TYPE WITH IRS (CHECK ONE) (NOTE: LLC IS NOT A VALID TAX FILING TYPE.) ___ Corporation ___ Individual ___ State/Local Government ___ Partnership ___ Sole Proprietor ___ Other _____			
AUTHORIZED SIGNATURE		DATE	
PRINTED NAME		TITLE	

## **1. INTRODUCTION AND GENERAL INFORMATION**

### **1.1 Introduction:**

- 1.1.1 This document constitutes a request for competitive, sealed proposals for the provision of medical laboratory services as set forth herein.
- 1.1.2 This RFP is a rebid of RFP B3Z07023 which was issued on August 8, 2006. One response was received however, due to lack of competition this RFP is being reissued.
- 1.1.3 Organization - This document, referred to as a Request for Proposal (RFP), is divided into the following parts:
  - 1) Introduction and General Information
  - 2) Contractual Requirements
  - 3) Proposal Submission Information
  - 4) Pricing Page(s)
  - 5) Exhibits A - F
  - 6) Terms and Conditions

### **1.2 Background Information:**

- 1.2.1 The Western Missouri Mental Health Center has previously contracted for medical laboratory services through C301226001 which expires November 30, 2006. A copy of that contract can be viewed and printed from the Division of Purchasing and Materials Management's **Public Record Search and Retrieval System** located on the Internet at: <http://www.oa.mo.gov/purch>. In addition, all proposal and evaluation documentation leading to the award of that expiring contract may also be viewed and printed from the Division of Purchasing and Materials Management's **Public Record Search and Retrieval System**. Please reference the Bid number B3Z01226 or the contract number C301226001 when searching for these documents.

## **2. CONTRACTUAL REQUIREMENTS**

**2.1 General Requirements:** The contractor shall provide medical laboratory services for the Western Missouri Mental Health Center, (hereinafter referred to as the state agency) in accordance with the provisions and requirements stated herein.

2.1.1 The contractor shall provide medical laboratory services on an as needed, if needed basis, to the sole satisfaction of the state agency.

2.1.2 The state agency estimates, but in no way guarantees, that routine medical laboratory tests may be needed in the quantities indicated on the Pricing Page. The state agency makes no commitment(s) or guarantees as to the quantity of STAT medical laboratory tests and routine tests that may be required.

2.1.3 The contractor shall agree and understand that the state agency reserves the right to obtain alternate laboratory testing services if deemed necessary to satisfy special or emergency needs of the state agency.

### **2.2 Pick-up and Transportation of Specimens:**

2.2.1 The contractor shall pick-up specimens from the state agency and transport the specimens to the laboratory that will be testing the specimens. If certain tests cannot be performed by the contractor's regular laboratory, the contractor shall transport the specimen(s) to another laboratory. The state agency must approve all laboratories that will be used.

a. Regular Scheduled Pick-ups: Unless otherwise requested by the state agency, the contractor shall pick-up specimens between the hours 7:00 – 8:00 am, Monday through Saturday.

b. Unscheduled Pick-ups: The contractor shall make additional specimen pick-ups as requested by the state agency, including weekends and after-hours. The contractor must either pick-up the unscheduled specimens within two (2) hours after the state agency's request or by the time specified by the state agency. The contractor's service shall be available on a twenty-four (24) hours-a-day, seven (7) days-a-week basis.

c. STAT Pick-ups: The contractor shall pick-up specimens requiring STAT testing within one (1) hour of notification by the state agency. The contractor's STAT service shall be available on a twenty-four (24) hours-a-day, seven (7) days-a-week basis.

2.2.2 The contractor shall provide the state agency with all necessary equipment and supplies for the specimens to be extracted and safely transported from the state agency to the contractor.

a. Such equipment and supplies shall include, but not necessarily be limited to: collection and shipping apparatus, needles, syringes, tubes, labels, urine specimen cups, culture tubes, slides, reagents, and instructions necessary for submission and shipment of laboratory specimens to the contractor's laboratory. In addition, the contractor shall provide vacutainer type 8.5 ml serum separator tubes; Ethylenediamine tetracetate (EDTA); multi-sample one inch, 21 gauge needles; and butterfly blood collection sets 23G 3/4 or equivalent.

b. All collection and shipping apparatus must be approved by the state agency and meet quality control standards.

2.2.3 The contractor must maintain specimens in proper condition while being transported in order to ensure accuracy of test performed.

**2.3 STAT Testing Requirements:** The contractor shall provide immediate testing of specimens requiring STAT testing as identified by the state agency. "STAT" services shall be defined as emergency tests which require results within a certain immediate timeframe.

- 2.3.1 The state agency shall identify a STAT request in writing on the test order form.
- 2.3.2 If required, the contractor shall provide STAT testing including, but not necessarily limited to lithium, valproate, carbamazepine, dilantin, Phenobarbital, electrolytes, pregnancy testing, and some measure of the liver function.
- 2.4 Test Result Reporting:**
- 2.4.1 Prior to reporting test results to the state agency, the contractor must have a supervisor review the test results and verify that quality control procedures were employed to ensure the accuracy of test results.
- 2.4.2 The contractor shall not be responsible for reporting test results on any waived testing as designated by the state agency, which shall include but not necessarily limited to pregnancy test and glucose test. However, the contractor shall provide monitoring and quality assurance for the waived testing, by (1) assigning user identification to the nursing staff, (2) downloading data from glucose machines monthly, and (3) reporting monthly testing to the state agency of which state agency staff performed tests and if they performed testing proficiency.
- 2.4.3 Routine Test Result Reporting:
- a. The contractor must submit test results to the state agency, via electronic transmission, within 24 hours following specimen pick-up unless, according to standard laboratory procedures, more time is required for a specific test because of test complexity. In such instance, test results must be reported to the state agency promptly upon test completion. The contractor should notify the state agency if test results cannot be reported within 24 hours following pickup.
  - b. Additionally, the contractor shall report test results by telephone if requested by the state agency.
- 2.4.4 STAT Test Result Reporting:
- a. The contractor shall report STAT test results to the state agency by telephone as soon as test results are available. The contractor shall provide telephone test results to the state agency within two (2) hours from the time of specimen pick-up.
  - b. The contractor shall submit STAT test results, via electronic transmission, to the state agency no later than twenty-four (24) hours from the time of specimen pick-up.
- 2.4.5 Emergency Medical Condition Reporting: The contractor shall immediately telephone the state agency with test results that indicate an emergency medical situation exists. In the event test results are not available until after state agency hours, the contractor shall immediately telephone a designated state agency representative to report the test results.
- 2.4.6 The contractor must include, at a minimum, the following information with the test results: the client's full name, test results, range of normal, indication of abnormal levels/values, chart number, ward/clinic or living area/building, date of specimen collection, date of specimen testing, and date of test result reporting. If dosage information was provided by the state agency, the contractor shall provide a drug dosage report with the medication dosage and the time and date the last medication dose was administered.
- 2.4.7 The contractor must provide and install an electronic transmission device and any additional and necessary hardware and software that would enable the state agency to receive, view, and print the test results transmitted from the contractor.
- a. The contractor shall provide all necessary supplies, paper, maintenance, and training.

- b. In the event the transmission device fails, the contractor must communicate test results in an alternative manner that enables the state agency to receive test results in accordance with the requirements defined herein.

## **2.5 Personnel Requirements:**

2.5.1 Phlebotomist - The contractor shall provide a phlebotomist that is experienced in drawing blood, spinning blood in centrifuge, and performing other basic laboratory services. The phlebotomist must be able to follow the facility(s) process in filing paperwork.

- a. The state agency estimates, but does not guarantees, that phlebotomy services will be needed 15-18 hours weekly.
- b. The contractor's phlebotomist shall draw STAT's on an as needed, if needed basis during regularly scheduled hours in place of the state agency's staff who will draw the STAT's during the off hours of the contractor's phlebotomist.
- c. The contractor's phlebotomist must attend and successfully complete the state agency's personnel background verification check and facility orientation class, to include but not limited to, the following:
  - 1) Tuberculosis Test annually;
  - 2) Drug Screen;
  - 3) The state agencies fire safety and emergency procedures;
  - 4) Fire Safety Orientation four (4) training with annual refresher certification.

## **2.6 Additional Requirements:**

2.6.1 Quality Review - The contractor shall understand and agree that the accuracy of the contractor's laboratory test findings may be subject to outside laboratory verification at the state agency's discretion.

- a. The state agency shall be responsible for any costs associated with verification of test results.
- b. In the event the state agency determines by verification that the results of the contractor's testing services are inaccurate or unreliable, the contract may be canceled without further cost to the State of Missouri in accordance with the applicable provisions and requirements stated herein.

2.6.2 Test Order Forms and Billing Forms - The contractor must provide the state agency with test order forms and billing forms which must, at a minimum, be formatted as follows:

- a. Sufficient space at the top for an addressograph stamp, enabling the state agency to provide client identification including client's full name and chart number;
- b. Spaces to accommodate living area/building, date ordered, date of specimen collection, time of specimen collection, physician's name, diagnosis code, and STAT order;
- c. Section to record the state agency's telephone number, extension; and name of individual designated to receive STAT results;
- d. Sufficient number of pages to enable the state agency to retain two (2) copies, and any additional pages the contractor deems necessary to accommodate the contractor's internal needs;
- e. Must be non-carbon and clearly readable;

- f. Must be one single form designed to enable ordering of all tests; and
- g. Must be coded to indicate specimen requirements.

2.6.3 Accreditation Requirements - The contractor must comply with all laws concerning licensing, accreditation, and regulations and must meet the following accreditation requirements and provide documentation of such credentials.

- a. If the contractor is a hospital, the contractor's hospital must be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). The hospital laboratory must be licensed to operate in interstate commerce by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act (CLIA).
- b. The contractor must be approved by the Commission on Inspection and Accreditation of the College of American Pathologists or Certified by the American Association of Bioanalysts.
- c. If the contractor is an independent reference laboratory, the contractor must meet CLIA license requirements. In addition, the contractor should be approved by Medicare to provide medial laboratory services.

2.6.4 The contractor shall make available and maintain a telephone hot-line accessible to the state agency twenty-four (24) hours a day, seven (7) days a week.

2.6.5 If requested by the state agency, the contractor shall provide additional copies of the price list or catalog submitted with the contractor's awarded proposal.

2.6.6 The contractor shall understand and agree that any information, record, report, or data derived, compiled, obtained, prepared, or developed by the contractor from services performed pursuant to the contract shall not be released, disseminated, or otherwise disclosed without the written consent of the state agency.

## **2.7 Liquidated Damages:**

2.7.1 Liquidated Damages - The contractor shall agree and understand that the provision of the medical laboratory services in accordance with the requirements and delivery schedules stated herein is considered critical to the efficient operations of the state agency. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the requirements and delivery schedules, the contractor shall agree and understand that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.

- a. In the event that the contractor fails to report any specimen's test results within the timeframe required herein, the contractor shall be assessed liquidated damages in the amount of \$50.00 per day for each twenty-four (24) hour period thereafter in which the identified requirement is not completed.
- b. The contractor shall also agree and understand that such liquidated damages shall either be deducted from the contractor's invoices pursuant to the contract or paid by the contractor as a direct payment to the state agency at the sole discretion of the state agency.
- c. The contractor shall understand that the liquidated damages described herein shall not be construed as a penalty.
- d. The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of the State of Missouri and shall be in addition to, not in lieu of, the rights of the State of Missouri to pursue other appropriate remedies.



**2.8 Invoicing and Payment Requirements:**

2.8.1 Immediately upon award of the contract, the contractor needs to submit or must have already submitted a properly completed State Vendor ACH/EFT Application, since the State of Missouri intends to make contract payments through Electronic Funds Transfer.

- a. If not already submitted, the contractor needs to obtain a copy of the State Vendor ACH/EFT Application and completion instructions from the Internet at:

<http://www.oa.mo.gov/purch/vendorinfo/vendorach.pdf>

- b. The contractor must submit invoices on the contractor's original descriptive business invoice form and must use a unique invoice number with each invoice submitted. The unique invoice number will be listed on the State of Missouri's EFT addendum record to enable the contractor to properly apply the state agency's payment to the invoice submitted.

2.8.2 The state agency shall identify those clients who have Medicare, Medicaid, a private source of payment, and/or commercial insurance and shall provide appropriate billing information for the contractor to collect third party reimbursements.

- a. For clients with a private source of payment and/or commercial insurance, the contractor shall invoice such private source of payment and/or commercial insurance for both the technical and professional components of the services provided.
- b. For inpatient clients with Medicaid, the contractor shall invoice Medicaid for the services provided. For inpatient clients with Medicare, the contractor shall invoice Medicare for only the professional component of the services provided. The contractor shall invoice Medicare and Medicaid in accordance with Medicare and Medicaid regulations.
- c. For outpatient clients with Medicaid and Medicare, the contractor shall invoice Medicaid and Medicare for the services provided in accordance with Medicaid and Medicare regulations.
- d. After final resolution, the contractor shall send to the state agency a copy of the remittance received by the contractor from Medicaid, Medicare, private source, and/or the commercial insurance documenting the approved and actual payment amounts.

2.8.3 After exhausting all third party resources, the contractor shall submit an itemized monthly invoice along with the remittance referenced in the preceding paragraphs to the state agency at the address stated below.

Western Missouri Mental health Center  
1000 E. 24<sup>th</sup> Street  
Kansas City, MO 64108

2.8.4 The contractor shall provide the following information, in appropriate UB-92 billing format, with the invoice:

- a. Client's names;
- b. Date(s) of service;
- c. Diagnosis;
- d. Procedure code;
- e. Revenue code;
- f. Valid CPT code;
- g. Compatible ICD code; and
- h. Total amount due.

- For clients and services not covered by a third party, the contractor shall invoice in accordance with the firm, fixed prices stated on the Pricing Page.
- For clients covered by a third party, the contractor shall invoice any applicable and acceptable portion of the firm, fixed price stated on the Pricing Page not paid by the third party due to a deductible and co-payment.
- For clients with Medicare or Medicaid, the contractor shall invoice for only the technical components of the services provided in accordance with the firm, fixed prices stated on the Pricing Page.

#### 2.8.5 Laboratory Tests:

- a. For any laboratory tests provided and reported where the test is listed on the Pricing Page, the contractor shall invoice in accordance with the firm, fixed price per test stated on the Pricing Page(s) and discounted by the percentage stated on the Pricing Page(s). **The contractor shall not be paid by the state agency more than the firm, fixed price per test stated on the Pricing Page(s) discounted by the percentage stated on the Pricing Page(s).**
- b. For any laboratory test provided and reported that is not listed on the pricing page but is listed in the contractor's price file or catalog, the contractor shall invoice in accordance with the firm, fixed price per test stated in the contractor's price file or catalog and discounted by the percentage stated on the Pricing Page(s). **The contractor shall not be paid by the state agency more than the firm, fixed price per test stated in the price file or catalog discounted by the percentage stated on the Pricing Page(s).**

2.8.6 Other Services – For each hour of phlebotomist services provided by the contractor, the contractor shall invoice in accordance with the firm, fixed price for such service as stated in the Pricing Page(s).

2.8.7 Payments – After receipt of approved invoices and reports and approval of services by the state agency, the contractor shall be paid for invoiced services, less any liquidated damages charged to the contractor as specified herein and except that the contractor shall not be paid for services if either of the following occurs: (1) a specimen is destroyed or there is an error in the handling or transportation of a specimen due to inaccurate instructions from the contractor or (2) the contractor mishandles a specimen. The decision of the state agency regarding if one of the exceptions occurred shall be final and without recourse.

2.8.8 Other than the payments specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever including, but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

#### 2.9 Other Contractual Requirements:

2.9.1 Contract - A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) the Division of Purchasing and Materials Management's acceptance of the proposal by "notice of award" or by "purchase order". All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.

- a. A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order unless the purchase is equal to or less than \$3,000. State purchases equal to or less than \$3,000 may be processed with a purchase order or other form of authorization given to the contractor at the discretion of the state agency.

- b. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
- c. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the Division of Purchasing and Materials Management or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

2.9.2 Contract Period - The original contract period shall be as stated on page 1 of the Request for Proposal (RFP). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. The Division of Purchasing and Materials Management shall have the right, at its sole option, to renew the contract for four (4) additional one-year periods, or any portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.

2.9.3 Renewal Periods - If the option for renewal is exercised by the Division of Purchasing and Materials Management, the contractor shall agree that the prices for the renewal period shall not exceed the maximum percent of increase for the applicable renewal period stated on the Pricing Page of the contract.

- a. If renewal percentages are not provided, then prices during renewal periods shall be the same as during the original contract period.
- b. The Division of Purchasing and Materials Management does not automatically exercise its option for renewal based upon the maximum percent of increase and reserves the right to offer or to request renewal of the contract at a price less than the maximum percent of increase stated.
- c. The discount percent off price list or catalog shall remain the same throughout the original contract period and all renewal options.

2.9.4 Termination - The Division of Purchasing and Materials Management reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.

2.9.5 Transition:

- a. Upon award of the contract, the contractor shall work with the state agency and any other organizations designated by the state agency to ensure an orderly transition of services and responsibilities under the contract and to ensure the continuity of those services required by the state agency.
- b. Upon expiration, termination, or cancellation of the contract, the contractor shall assist the state agency to ensure an orderly transfer of responsibility and/or the continuity of those services required under the terms of the contract to an organization designated by the state agency, if requested in writing. The contractor shall provide and/or perform any or all of the following responsibilities:
  - 1) The contractor shall deliver, FOB destination, all records, documentation, reports, data, recommendations, or printing elements, etc., which were required to be produced under the terms of the contract to the state agency and/or to the state agency's designee within seven (7)

days after receipt of the written request in a format and condition that are acceptable to the state agency.

- 2) The contractor shall agree to continue providing any part or all of the services in accordance with the terms and conditions, requirements and specifications of the contract for a period not to exceed sixty (60) calendar days after the expiration, termination or cancellation date of the contract for a price not to exceed those prices set forth in the contract.
- 3) The contractor shall discontinue providing service or accepting new assignments under the terms of the contract, on the date specified by the state agency, in order to ensure the completion of such service prior to the expiration of the contract.

2.9.6 Contractor Liability - The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act.

- a. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.
- b. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.
- c. Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); or (2) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.

2.9.7 Insurance - The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract.

- a. The insurance coverage shall include general liability and appropriate professional liability.
- b. Written evidence of the insurance shall be provided by the contractor to the state agency. The evidence of insurance shall include, but shall not necessarily be limited to: effective dates of coverage, limits of liability, insurer's name, policy number, endorsement by representatives of the insurance company, etc. Evidence of self-insurance coverage or of another alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable. The evidence of insurance coverage must be submitted before or upon award of the contract. The contract number must be identified on the evidence of insurance coverage.
- c. In the event the insurance coverage is canceled, the state agency must be notified immediately.

2.9.8 Subcontractors - Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the State of Missouri and to ensure that the State of Missouri is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost

(including attorney fees) of any kind related to a subcontract in those matters described in the contract between the State of Missouri and the contractor.

- a. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract.
- b. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein.
- c. The contractor must obtain the approval of the State of Missouri prior to establishing any new subcontracting arrangements and before changing any subcontractors. The approval shall not be arbitrarily withheld.

2.9.9 Substitution of Personnel - The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific individual(s) and/or personnel qualifications identified in the proposal. Therefore, the contractor agrees that no substitution of such specific individual(s) and/or personnel qualifications shall be made without the prior written approval of the state agency. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the state agency's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State of Missouri agrees that an approval of a substitution will not be unreasonably withheld.

2.9.10 Contractor Status - The contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Missouri. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the State of Missouri, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

2.9.11 Coordination - The contractor shall fully coordinate all contract activities with those activities of the state agency. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the state agency or the Division of Purchasing and Materials Management throughout the effective period of the contract.

2.9.12 Property of State - All reports, documentation, and material developed or acquired by the contractor as a direct requirement specified in the contract shall become the property of the State of Missouri. Upon expiration, termination, or cancellation of the contract, all documents, data, reports, supplies, equipment, and accomplishments prepared, furnished or completed by the contractor pursuant to the terms of the contract shall become the property of the state agency.

2.9.13 Commercial Drivers License - The contractor and the contractor's drivers who, in the provision of services under the contract: (1) operate any single vehicle with a Gross Vehicle Weight Rating (GVWR) of over 26,000 pounds or any combination vehicle with a Gross Combination Weight Rating of over 26,000 pounds provided the Gross Vehicle Weight Rating of the vehicle(s) being towed is in excess of 10,000 pounds, (2) operate any size vehicle which requires hazardous materials placards, (3) operate any vehicle designed to transport more than 15 persons (including the driver) transports more than 15 persons, or (4) engage in any other activity outlined in the Commercial Motor Vehicle Safety Act, must comply with all other requirements in the Commercial Motor Vehicle Safety Act. The contractor must submit proof or verification of compliance with such Act to the state agency no later than 30 calendar days after award of the contract.

2.9.14 Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Participation - The contractor must comply with the MBE/WBE participation levels committed to in the contractor's awarded proposal.

- a. The contractor shall prepare and submit to the Division of Purchasing and Materials Management periodic reports detailing all payments to MBE/WBEs participating in the contract. The report must include MBE/WBE payments for the reporting period. The report shall be submitted on a monthly basis unless otherwise determined by the Division of Purchasing and Materials Management.
- b. The Division of Purchasing and Materials Management and the Office of Supplier and Workforce Diversity (OSWD) will monitor the contractor's compliance in meeting the MBE/WBE participation levels committed to in the contractor's awarded proposal. If the contractor's payments to participating MBE/WBEs are less than the amount committed to in the contract, the state may cancel the contract, suspend or debar the contractor from participating in future state procurements, or retain payments to the contractor in an amount equal to the value of the MBE/WBE participation commitment less actual payments made by the contractor to MBE/WBEs. If the Division of Purchasing and Materials Management determines that the contractor is in compliance with the MBE/WBE participation commitment, the state will release the retained funds.
- c. If a participating MBE/WBE fails to retain their certification or is unable to satisfactorily perform, the contractor must obtain other certified MBE/WBEs to fulfill the MBE/WBE participation requirements committed to in the contractor's awarded proposal. The contractor must obtain the written approval of the Division of Purchasing and Materials Management for any new MBE/WBE participants. This approval shall not be arbitrarily withheld. If the contractor cannot obtain a MBE/WBE replacement, the contractor must submit documentation to the Division of Purchasing and Materials Management detailing all efforts made to secure an MBE/WBE replacement. The Division of Purchasing and Materials Management shall have sole discretion in determining if the actions taken by the contractor constitute a good faith effort to secure the participation of MBE/WBEs and whether the contract will be amended to change the MBE/WBE participation commitment.

## **2.10 Business Associate Provisions:**

2.10.1 Health Insurance Portability and Accountability Act of 1996 (HIPAA) - The state agency is subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all regulations promulgated pursuant to authority granted therein. The contractor constitutes a "Business Associate" of the state agency as such term is defined in the Code of Federal Regulations (CFR) at 45 CFR 160.103. Therefore, the term, "contractor" as used in this section shall mean "Business Associate."

- a. The contractor shall agree and understand that for purposes of the Business Associate Provisions contained herein, terms used but not otherwise defined shall have the same meaning as those terms defined in 45 CFR parts 160 and 164, including, but not limited to the following:
  - 1) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
  - 2) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR part 164, subpart C.
  - 3) "Enforcement Rule" shall mean the HIPAA Administrative Simplification: Enforcement; Final Rule at 45 CFR parts 160 and 164.
  - 4) "Individual" shall have the same meaning as the term "individual" in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502 (g).
  - 5) "Protected Health Information" as defined in 45 CFR 160.103, shall mean individually identifiable health information:
    - (1) Except as provided in paragraph (2) of this definition, that is: (i) Transmitted by electronic media; or (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.

- (2) Protected Health Information excludes individually identifiable health information in (i) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; (ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and (iii) Employment records held by a covered entity [state agency] in its role as employer.
  - 6) "Electronic Protected Health Information" shall mean information that comes within paragraphs (1)(i) or (1)(ii) of the definition of Protected Health Information as specified above.
  - 7) Access, administrative safeguards, confidentiality, covered entity, data aggregation, designated record set, disclosure, hybrid entity, information system, physical safeguards, required by law, technical safeguards, use and workforce shall have the same meanings as defined in 45 CFR 160.103, 164.103, 164.304, and 164.501 and HIPAA.
- b. The contractor agrees and understands that wherever in this document the term Protected Health Information is used, it shall also be deemed to include Electronic Protected Health Information.
  - c. The contractor must appropriately safeguard Protected Health Information which the contractor receives from or creates or receives on behalf of the state agency. To provide reasonable assurance of appropriate safeguards, the contractor shall comply with the business associate provisions stated herein.
  - d. The state agency and the contractor agree to amend the contract as is necessary for the parties to comply with the requirements of HIPAA and the Privacy Rule, Security Rule, and Enforcement Rule (hereinafter referenced as the regulations promulgated thereunder).

#### 2.10.2 Permitted uses and disclosures of Protected Health Information:

- a. The contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the state agency as specified in the contract, provided that such use or disclosure would not violate HIPAA and the regulations promulgated thereunder.
- b. The contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1) and shall notify the state agency by no later than ten (10) calendar days after the contractor becomes aware of the disclosure of the Protected Health Information.
- c. If required to properly perform the contract and subject to the terms of the contract, the contractor may use or disclose Protected Health Information if necessary for the proper management and administration of the contractor's business.
- d. If the disclosure is required by law, the contractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor.

#### 2.10.3 Obligations of the contractor:

- a. The contractor shall not use or disclose Protected Health Information other than as permitted or required by the contract or as otherwise required by law.
- b. The contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the contract. Such safeguards may include, but shall not be limited to:
  - 1) Workforce training on the appropriate uses and disclosures of Protected Health Information pursuant to the terms of the contract.
  - 2) Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of Protected Health Information by its workforce.

- 3) Any other safeguards necessary to prevent the inappropriate use or disclosure of Protected Health Information.
- c. With respect to Electronic Protected Health Information, the contractor shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic Protected Health Information that contractor creates, receives, maintains or transmits on behalf of the state agency.
- d. The contractor shall require that any agent or subcontractor to whom the contractor provides any Protected Health Information received from, created by, or received by the contractor pursuant to the contract, also agrees to the same restrictions and conditions stated herein that apply to the contractor with respect to such information.
- e. By no later than ten (10) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall make the contractor's internal practices, books, and records, including policies and procedures and Protected Health Information relating to the use and disclosure of Protected Health Information received from, created by, or received by the contractor on behalf of the state agency available to the state agency and/or to the Secretary of the Department of Health and Human Services or designee for purposes of determining compliance with HIPAA and the regulations promulgated thereunder.
- f. The contractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the state agency to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528. By no later than five (5) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the state agency.
- g. In order to meet the requirements under 45 CFR 164.524 regarding an individual's right of access, the contractor shall, within five (5) calendar days following a state agency request, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, provide the state agency access to the Protected Health Information in an individual's designated record set. However, if requested by the state agency, the contractor shall provide access to the Protected Health Information in a designated record set directly to the individual for whom such information relates
- h. At the direction of the state agency, the contractor shall promptly make any amendment(s) to Protected Health Information in a designated record set pursuant to 45 CFR 164.526.
- i. The contractor shall report to the state agency's Security Officer any security incident immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. For purposes of this paragraph, security incident shall mean the attempted or successful unauthorized access, use, modification or destruction of information or interference with systems operations in an information system. This does not include trivial incidents that occur on a daily basis, such as scans, "pings," or unsuccessful attempts that do not penetrate computer networks or servers or result in interference with system operations. By no later than five (5) days after the contractor becomes aware of such incident, the contractor shall provide the state agency's Security Officer with a description of any remedial action taken to mitigate any harmful effect of such incident and a proposed written plan of action for approval that describes plans for preventing any such future security incidents.
- j. The contractor shall report to the state agency's Privacy Officer any unauthorized use or disclosure of Protected Health Information not permitted or required as stated herein immediately upon



becoming aware of such use or disclosure and shall take immediate action to stop the unauthorized use or disclosure. By no later than five (5) calendar days after the contractor becomes aware of such use or disclosure, the contractor shall provide the state agency's Privacy Officer with a written description of any remedial action taken to mitigate any harmful effect of such disclosure and a proposed written plan of action for approval that describes plans for preventing any such future unauthorized uses or disclosures

- k. Notwithstanding any provisions of the Terms and Conditions attached hereto, in order to meet the requirements under HIPAA and the regulations promulgated thereunder, the contractor shall keep and retain adequate, accurate, and complete records of the documentation required under these provisions for a minimum of six (6) years as specified in 45 CFR part 164.

#### 2.10.4 Obligations of the State Agency:

- a. The state agency shall notify the contractor of limitation(s) that may affect the contractor's use or disclosure of Protected Health Information, by providing the contractor with the state agency's notice of privacy practices in accordance with 45 CFR 164.520.
- b. The state agency shall notify the contractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.
- c. The state agency shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the state agency has agreed to in accordance with 45 CFR 164.522.
- d. The state agency shall not request the contractor to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA and the regulations promulgated thereunder.

#### 2.10.5 Expiration/Termination/Cancellation - Except as provided in the subparagraph below, upon the expiration, termination, or cancellation of the contract for any reason, the contractor shall, at the discretion of the state agency, either return to the state agency or destroy all Protected Health Information received by the contractor from the state agency, or created or received by the contractor on behalf of the state agency, and shall not retain any copies of such Protected Health Information. This provision shall also apply to Protected Health Information that is in the possession of subcontractors or agents of the contractor

- a. In the event the state agency determines that returning or destroying the Protected Health Information is not feasible, the contractor shall extend the protections of the contract to the Protected Health Information for as long as the contractor maintains the Protected Health Information and shall limit the use and disclosure of the Protected Health Information to those purposes that made return or destruction of the information infeasible. If at any time it becomes feasible to return or destroy any such Protected Health Information maintained pursuant to this paragraph, the contractor must notify the state agency and obtain instructions from the state agency for either the return or destruction of the Protected Health Information.

#### 2.10.6 Breach of Contract– In the event the contractor is in breach of contract with regard to the business associate provisions included herein, the contractor agrees and understands that in addition to the requirements of the contract related to cancellation of contract, if the state agency determines that cancellation of the contract is not feasible, the State of Missouri may elect not to cancel the contract, but the state agency shall report the contractual breach to the Secretary of the Department of Health and Human Services.

### **3. PROPOSAL SUBMISSION INFORMATION**

#### **3.1 Submission of Proposals:**

3.1.1 ELECTRONIC SUBMISSION OF PROPOSALS THROUGH THE ON-LINE BIDDING/VENDOR REGISTRATION SYSTEM WEB SITE IS NOT AVAILABLE FOR THIS RFP.

3.1.2 When submitting a proposal, the offeror should include three (3) additional copies along with their original proposal. The front cover of the original proposal should be labeled “original” and the front cover of all copies should be labeled “copy”.

- a. Recycled Products - The State of Missouri recognizes the limited nature of our resources and the leadership role of government agencies in regard to the environment. Accordingly, the offeror is requested, but not required, to print the proposal double sided using recycled paper, if possible, and minimize or eliminate the use of non-recyclable materials such as plastic report covers, plastic dividers, vinyl sleeves, and binding. Lengthy proposals may be submitted using printer or other loose leaf paper in a notebook or binder.
- b. Open Records - The offeror’s proposal shall be considered an open record after a contract is executed or all proposals are rejected pursuant to Section RSMo 610.021. At that time, all proposals are scanned into the Division of Purchasing and Materials Management imaging system.
  - 1) The scanned information will be able for viewing through the Internet from the Division of Purchasing and Materials Management Public Record Search system. Therefore, the offeror is advised not to include any information in the proposal that the offeror does not want to be viewed by the public, including personal identifying information such as social security numbers.
  - 2) In preparing a proposal, the offeror should be mindful of document preparation efforts for imaging purposes and storage capacity that will be required to image the proposals and should limit proposal content to items that provide substance, quality of content, and clarity of information.

3.1.3 To facilitate the evaluation process, the offeror is encouraged to organize their proposal into sections that correspond with the individual evaluation categories described herein. The offeror is cautioned that it is the offeror’s sole responsibility to submit information related to the evaluation categories and that the State of Missouri is under no obligation to solicit such information if it is not included with the proposal. The offeror’s failure to submit such information may cause an adverse impact on the evaluation of the proposal.

- a. Each section should be titled with each individual evaluation category and all material related to that category should be included therein.
- b. The proposal should be page numbered.
- c. The signed page one from the original RFP and all signed amendments should be placed at the beginning of the proposal.

3.1.4 Questions Regarding the RFP - The offeror and the offeror’s agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc., to the buyer of record indicated on the first page of this RFP.

- a. The buyer may be contacted via e-mail or phone as shown on the first page, or via facsimile to 573-526-9817.
- b. The offeror is advised that any questions received less than ten calendar days prior to the RFP opening date may not be answered.

- c. Except as stated below, the offeror and the offeror's agents may not contact any other state employee regarding the RFP, the evaluation, etc., during the solicitation and evaluation process.
  - 1) Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements.
  - 2) The offeror may contact the Office of Supplier and Workforce Diversity (OSWD) regarding MBE/WBE certification or subcontracting with MBE/WBE companies.
  - 3) Offerors and their agents who have questions regarding this matter should contact the buyer.

**3.2 Competitive Negotiation of Proposals** - The offeror is advised that under the provisions of this Request for Proposal, the Division of Purchasing and Materials Management reserves the right to conduct negotiations of the proposals received or to award a contract without negotiations. If such negotiations are conducted, the following conditions shall apply:

- 3.2.1 Negotiations may be conducted in person, in writing, or by telephone.
- 3.2.2 Negotiations will only be conducted with potentially acceptable proposals. The Division of Purchasing and Materials Management reserves the right to limit negotiations to those proposals which received the highest rankings during the initial evaluation phase. All offerors involved in the negotiation process will be invited to submit a best and final offer.
- 3.2.3 Terms, conditions, prices, methodology, or other features of the offeror's proposal may be subject to negotiation and subsequent revision. As part of the negotiations, the offeror may be required to submit supporting financial, pricing and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the proposal.
- 3.2.4 The mandatory requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the Division of Purchasing and Materials Management determines that a change in such requirements is in the best interest of the State of Missouri.

**3.3 Evaluation and Award Process:**

- 3.3.1 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use both objective analysis and subjective judgment in conducting a comparative assessment of the proposal in accordance with the evaluation criteria stated below:
  - a. Cost.....50 points
  - b. Experience, Reliability, and Expertise of Personnel.....25 points
  - c. Method of Performance .....20 points
  - d. MBE/WBE Participation .....5 points
- 3.3.2 After an initial screening process, a question and answer conference or interview may be conducted with the offeror, if deemed necessary by the Division of Purchasing and Materials Management. In addition, the offeror may be asked to make an oral presentation of their proposal during the conference. Attendance cost at the conference shall be at the offeror's expense. All arrangements and scheduling shall be coordinated by the Division of Purchasing and Materials Management.
- 3.3.3 Preference for Organizations for the Blind and Sheltered Workshops - Pursuant to 34.165 RSMo, a five (5) bonus point preference shall be granted to offerors including products and/or services manufactured, produced or assembled by a qualified nonprofit organization for the blind established pursuant to 41 U.S.C. sections 46 to 48c or a sheltered workshop holding a certificate of approval from the Department of Elementary and Secondary Education pursuant to section 178.920 RSMo. Five bonus points will be added to the total evaluation points for offerors qualifying for the preference.
  - a. If the offeror is an organization for the blind or sheltered workshop, the offeror should provide evidence of qualifications (i.e., copy of certificate or certificate number).

- b. If the offeror is utilizing an organization for the blind or a sheltered workshop as a subcontractor, the offeror should submit: (1) a letter of intent signed by the organization for the blind or sheltered workshop describing the products/services they will provide and indicating their commitment to aid the contractor's performance under the prospective state contract and (2) evidence that the subcontractor qualifies as an organization for the blind or sheltered workshop.
- c. A list of Missouri sheltered workshops can be found at the following internet address:  
<http://www.dese.mo.gov/divspeced/shelteredworkshops/index.html>.

### 3.4 Evaluation of Cost:

- 3.4.1 The objective evaluation of cost shall be based upon the sum of (1) the firm, fixed prices quoted for each routine test identified on the Pricing Page, discounted by the percentage stated on the Pricing Page, then multiplied by the estimated quantity for that test, and (2) the total of the firm, fixed prices quoted for each STAT test identified on the Pricing Page, discounted by the percentage stated on the Pricing Page, then multiplied by the estimated quantity for that test, and (3) 780 hours of phlebotomist services.

- a. The evaluation of cost will include the original and any potential renewal periods.
- b. Cost evaluation points shall be determined from the result of the calculation stated above using the following formula:

$$\frac{\text{Lowest Responsive Offeror's Price}}{\text{Compared Offeror's Price}} \quad \times \quad 50 \quad = \quad \text{Cost evaluation points}$$

- c. The offeror shall agree and understand that the quantities used in the evaluation of cost are provided solely to document how cost will be evaluated. The State of Missouri makes no guarantee regarding the accuracy of the quantities stated nor does the State of Missouri intend to imply that the figures used for the cost evaluation in any way reflect actual nor anticipated usage.

### 3.5 Evaluation of Offeror's Experience, Reliability, and Expertise of Personnel:

Experience and reliability of the offeror's organization will be considered subjectively in the evaluation process. Therefore, the offeror is advised to submit information concerning the offeror's organization and information documenting the offeror's experience in past performances, especially those performances related to the requirements of this RFP. Also, the qualifications of the personnel proposed by the offeror to perform the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.

- 3.5.1 Licenses - The offeror should submit a copy of all licenses and/or certifications related to the performance of the services required herein that are held by the personnel proposed to provide such services. If not submitted with the proposal, the State of Missouri reserves the right to request and obtain a copy of any license or certification required to perform the defined services prior to contract award.
- 3.5.2 Offeror Information - The offeror should provide information about the offeror's organization on Exhibit A.
- 3.5.3 Prior Experience - The offeror should provide information related to previous and current services/contracts of the offeror or offeror's proposed subcontractor where performance was similar to the required services of this RFP. The information may be shown on Exhibit B or in a similar manner.
- 3.5.4 Business Compliance - The offeror must be in compliance with the laws regarding conducting business in the State of Missouri. The offeror certifies by signing the signature page of this original document and

any amendment signature page(s) that the offeror and any proposed subcontractors either are presently in compliance with such laws or shall be in compliance with such laws prior to any resulting contract award. The offeror shall provide documentation of compliance upon request by the Division of Purchasing and Materials Management. The compliance to conduct business in the state shall include, but not necessarily be limited to:

- a. Registration of business name (if applicable)
- b. Certificate of authority to transact business/certificate of good standing (if applicable)
- c. Taxes (e.g., city/county/state/federal)
- d. State and local certifications (e.g., professions/occupations/activities)
- e. Licenses and permits (e.g., city/county license, sales permits)
- f. Insurance (e.g., worker's compensation/unemployment compensation)

3.5.5 Personnel Expertise - The offeror should utilize Exhibit C for summarizing the personnel information for proposed key personnel and may also submit resumes with additional information.

- a. The information provided should be structured to emphasize relevant qualifications and experience of the personnel in completing contracts/performing services of a similar size and scope to the requirements of this document.
- b. Information submitted should clearly identify previous experience of the person in performing similar services and should include beginning and ending dates, a description of the role of the person in such performances, results of the services performed, and whether the person is proposed for the same services for the State of Missouri.

3.5.6 Personnel Qualifications - If personnel are not yet hired, the offeror should provide detailed descriptions of the required employment qualifications; and detailed job descriptions of the position to be filled, including the type of person proposed to be hired.

3.5.7 The offeror should submit a copy of all licenses, certifications, accreditations, and/or permits required by state, federal, and/or local law, statute, or regulation to provide medical laboratory services. The offeror should, as applicable, submit documentation verifying the following: (1) accreditation by JCAHO, (2) approved by the Commission on Inspection and Accreditation of the College of American Pathologists, (3) approved by Medicare, (4) certified by CAP, (5) licensed by the CLIA, (6) and/or certified by the American Association of Bioanalysts. If not submitted with the proposal, the State of Missouri reserves the right, prior to contract award, to request and obtain a copy of any licenses, certifications, accreditations, and/or permits required to provide medical laboratory services.

### **3.6 Evaluation of Method of Performance:**

Proposals will be subjectively evaluated based on the offeror's plan for performing the requirements of the RFP. Therefore, the offeror should present information which demonstrates the method or manner in which the offeror proposes to satisfy these requirements and which confirms the offeror's ability to satisfy the requirements. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of action.

3.6.1 Description of Proposed Services - Exhibit D is provided for the offeror's use in providing information about the proposed method of performance. The offeror may also respond to the provisions in the Contractual Requirements by: (1) identifying each specific paragraph and subparagraph of the Contractual Requirements by paragraph number, (2) then writing a description of how, when, by whom, with what, to what degree, why, where, etc., the requirement will be satisfied and otherwise detailing the offeror's understanding of the requirements and ability and methodology to successfully perform.

3.6.2 The offeror shall provide a price file or catalog for all laboratory tests the offeror provides.

- a. The offeror's price file or catalog should include the laboratory test name, CPT Code, maximum response time, and the routine test and STAT test price for each laboratory test.

3.6.3 Organizational Chart - The offeror should provide an organizational chart showing the staffing and lines of authority for the key personnel to be used. The organizational chart should include (1) The relationship of service personnel to management and support personnel, (2) The names of the personnel and the working titles of each, and (3) Any proposed subcontractors including management, supervisory, and other key personnel.

**3.7 Evaluation of Offeror's Minority Business Enterprise (MBE)/ Women Business Enterprise (WBE) Participation:**

3.7.1 In order for the Division of Purchasing and Materials Management (DPMM) to meet the provisions of Executive Order 05-30, it is desired the offeror secure participation of certified MBEs and WBEs in providing the products/services required in this RFP. The targets of participation recommended by the State of Missouri are 10% MBE and 5% WBE of the total dollar value of the contract.

- a. These targets can be met by a qualified MBE/WBE offeror themselves and/or through the use of qualified subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for MBE/WBE participation.
- b. Work performed by MBE/WBEs must provide a commercially useful function related to the delivery of the service/product required herein.
- c. In order to be considered as meeting these targets, the MBE/WBEs must be "qualified" at the time the proposal is submitted. (See below for a definition of a qualified MBE/WBE.)

3.7.2 The offeror's proposed participation of MBE/WBE firms in meeting the targets of the RFP will be considered in the evaluation process as specified below:

- a. The offeror's failure to provide any commercially useful MBE/WBE participation shall result in a score of 0 in this evaluation category.
- b. Offerors meeting or exceeding the State of Missouri targets of 10% MBE and 5% WBE participation shall receive the maximum points in this category.
- c. Lesser participation commitments shall receive a lesser amount of the maximum points.

3.7.3 If the offeror is proposing MBE/WBE participation, in order to receive evaluation consideration for MBE/WBE participation, the offeror must provide information on the offeror's proposed participation of MBE/WBE firms by submitting the following completed Exhibits with the proposal.

- a. Participation Commitment - If the offeror is proposing MBE/WBE participation, the offeror must complete Exhibit E, Participation Commitment, in order to identify each proposed MBE and WBE as well as to identify the offeror's proposed total MBE/WBE participation commitment.
- b. Documentation of MBE/WBE Participation - If the offeror is proposing MBE/WBE participation, the offeror must ensure that each MBE and WBE listed in Exhibit E, Participation Commitment, completes Exhibit F, Documentation of MBE/WBE Participation, which must be submitted with the offeror's proposal.
- c. Offerors Qualifying as MBE/WBE - If the offeror submitting the proposal is a qualified MBE and/or WBE, the offeror must complete both the Participation Commitment and Documentation of MBE/WBE Participation Exhibits identified above.

3.7.4 Commitment – If the offeror’s proposal is awarded, the percentage level of MBE/WBE participation committed to by the offeror in Exhibit E, Participation Commitment, and verified in Exhibit F, Documentation of MBE/WBE Participation, shall be interpreted as a contractual requirement.

3.7.5 Definition -- Qualified MBE/WBE:

- a. In order to be considered a qualified MBE or WBE for purposes of this RFP, the MBE/WBE must be certified by the State of Missouri, Office of Administration, Office of Supplier and Workforce Diversity (OSWD).
- b. MBE or WBE means a business that is a sole proprietorship, partnership, joint venture, or corporation in which at least fifty-one percent (51%) of the ownership interest is held by minorities or women and the management and daily business operations of which are controlled by one or more minorities or women who own it.
- c. Minority is defined as belonging to one of the following racial minority groups: African Americans, Native Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos, Aleuts and other groups that may be recognized by the Office of Advocacy, United States Small Business Administration, Washington, D.C.

3.7.6 Resources - A listing of several resources that are available to assist offerors in their efforts to identify and secure the participation of qualified MBEs and WBEs is available at the website shown below or by contacting the Office of Supplier and Workforce Diversity (OSWD) at:

Office of Administration, Office of Supplier and Workforce Diversity  
Harry S Truman Bldg., Room 630, P.O. Box 809, Jefferson City, MO 65102  
Phone: (877) 259-2963 or (573) 751-8130  
Fax: (573) 522-8078  
Web site: <http://www.oa.mo.gov/oswd>

**4. PRICING PAGE***(Commodity Code 94942 Laboratory Services, Medical)*

*The offeror shall provide the following firm, fixed price(s) for providing the services in accordance with the provisions and requirements of this RFP. All costs associated with providing the required services shall be included in the stated price(s).*

**4.1 PRICE LIST OR CATALOG:** The offeror shall provide a price list or catalog of firm, fixed routine test price(s) and firm, fixed STAT test price(s) for all proposed medical laboratory services. If STAT prices are not included, the State of Missouri shall assume that the offeror can provide STAT testing at the routine firm, fixed price(s) stated in the price list or catalog.

**4.2 DISCOUNT:** The offeror shall state a firm, fixed percentage discount off the prices provided in the offeror's price list or catalog and the prices quoted below which shall determine the actual price charged to the state agency:

**Line Item 001:** \_\_\_\_\_ % Discount

**4.3 TESTS:** The offeror must provide a firm, fixed price per routine test and a firm, fixed price per STAT test for the following:

<b>Description/Test Name</b>	<b>CPT Code</b>	<b>Estimated Quantity</b>	<b>Original Contract Period Firm, Fixed Price Per Routine Test</b>	<b>Original Contract Period Firm, Fixed Price Per STAT Test</b>
COMPREHENSIVE METABOLIC PANEL Must include: A/G ratio, albumin, alkaline phosphatase, AST, ALT, bilirubin total, BUN, BUN/creatinine ratio calcium, chloride, CO2, creatinine, globulin, glucose, potassium, protein total, sodium	80053	2500	\$ _____ (002)	\$ _____ (003)
ELECTROLYTE PANEL Must include: CO2, Chloride, Sodium, Potassium	80051	40	\$ _____ (004)	\$ _____ (005)
HEPATIC FUNCTION PANEL Must include: albumin, alkaline phosphatase, ALT, AST, bilirubin total and direct protein total	80076	10	\$ _____ (006)	\$ _____ (007)
ACUTE HEPATITIS PANEL Must include: hepatitis A virus AB, IgM, hepatitis B core Ab IgM, hepatitis B surface Ag, hepatitis C Ab	80074	40	\$ _____ (008)	\$ _____ (009)
LIPID PANEL Must include: cholesterol, HDL chol, LDL chol, VLDL chol, triglycerides	80061	1500	\$ _____ (010)	\$ _____ (011)
RENAL FUNCTION PANEL Must include; albumin, BUN, calcium, CO2, chloride, creatinine, glucose, phosphorus, potassium, sodium	80069	25	\$ _____ (012)	\$ _____ (013)
CBC WITH DIFFERENTIAL Must include: hemogram and platelet count, automated and automated complete differential	85025	2200	\$ _____ (014)	\$ _____ (015)



Description/Test Name	CPT Code	Estimated Quantity	Original Contract Period <i>Firm, Fixed Price Per Routine Test</i>	Original Contract Period <i>Firm, Fixed Price Per STAT Test</i>
T3 UPTAKE	84479	2500	\$ _____ (016)	\$ _____ (017)
THYROID STIMULATING HORMONE (TSH)	84443	700	\$ _____ (018)	\$ _____ (019)
VALPROIC ACID	80164	600	\$ _____ (020)	\$ _____ (021)
LITHIUM (ESKALITH), SERUM	80178	300	\$ _____ (022)	\$ _____ (023)
PHENYTON (DILANTIN), SERUM	80186	300	\$ _____ (024)	\$ _____ (025)
GLYCOHEMOGLOBIN	88180	200	\$ _____ (026)	\$ _____ (027)

- 4.4 Phlebotomist:** The offeror shall state a firm, fixed price per hour for providing phlebotomy and related services for the original contract period. (CPT Code: 88000).

Line Item #	Description	Original Contract Period <i>Firm, Fixed Price</i>
<b>028</b>	Phlebotomist	\$ _____ <i>per hour</i>

- 4.5 Renewal Option Pricing -** The offeror must indicate below the maximum allowable percentage of price increase or guaranteed minimum percentage of price decrease applicable to the above pricing for the renewal option years. If a percentage is not proposed (e.g. left blank, page not returned, etc.), the state shall have the right to execute the option at the same price(s) proposed for the original contract period. Statements such as "a percentage of the then-current price" or "consumer price index" are NOT ACCEPTABLE.

All increases or decreases shall be calculated against the **original** contract price, **not** against the previous year's price. A cumulative calculation shall not be utilized.

Potential Renewal Period	Maximum Increase		Minimum Decrease
First Renewal Period	Original Price + _____%	or	Original Price - _____%
Second Renewal Period	Original Price + _____%	or	Original Price - _____%
Third Renewal Period	Original Price + _____%	or	Original Price - _____%
Fourth Renewal Period	Original Price + _____%	or	Original Price - _____%

~ Do not complete both a maximum increase and a minimum decrease for the same renewal period. ~

**EXHIBIT A**  
**OFFEROR INFORMATION**

The offeror should provide the following information about the offeror's organization:
--

- a. Provide a brief company history, including the founding date and number of years in business as currently constituted.
- b. Describe the nature of the offeror's business, type of services performed, etc.
- c. Provide a list of and a short summary of information regarding the offeror's current contracts/clients. List, identify, and provide reasons for each contract/client gained and lost in the past 2 years.
- d. Describe the structure of the organization including any board of directors, partners, top departmental management, corporate organization, corporate trade affiliations, any parent/subsidiary affiliations with other firms, etc.
- e. Provide a list summarizing pending litigation, any civil or criminal judgments, any bankruptcy proceedings, etc., that could affect the offeror's ability to perform. Failure to list such litigation may result in rejection of the proposal or in termination of any subsequent contract.
- f. Document the offeror's financial solvency in a manner that is acceptable for public review. Audited financial statements for the last year will provide such documentation; however, the statements will become public information. If the offeror is a subsidiary, also provide the documentation for the parent company.

**EXHIBIT B****PRIOR EXPERIENCE**

The offeror should copy and complete this form for each reference being submitted as demonstration of the offeror and subcontractor's prior experience. In addition, the offeror is advised that if the contact person listed for the reference is unable to be reached during the evaluation, the listed experience may not be considered.

<b>Offeror Name or Subcontractor Name:</b> _____	
<b>Reference Information (Prior Services Performed For:)</b>	
Name of Reference Company:	
Address of Reference Company ✓ Street Address ✓ City, State, Zip	
Reference Contact Person Information: ✓ Name ✓ Phone # ✓ E-mail Address	
Dates of Prior Services:	
Dollar Value of Prior Services	
Description of Prior Services Performed	

As the contact person for the reference provided above, my signature below verifies that the information presented on this form is accurate. I am available for contact by the State of Missouri for additional discussions regarding my/my company's association with the offeror referenced above:

\_\_\_\_\_  
*Signature of Reference Contact Person*

\_\_\_\_\_  
*Date of Signature*

**EXHIBIT C****PERSONNEL EXPERTISE SUMMARY**

(Complete this Exhibit for personnel proposed. Resumes or summaries of key information may be provided)

Personnel	Background and Expertise of Personnel and Planned Duties
1. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
2. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
3. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
4. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
5. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	
6. _____ (Name) _____ (Title) _____ (Proposed Role/Function)	

**EXHIBIT D****METHOD OF PERFORMANCE**

The offeror should use this Exhibit, or any format desired, to present a written plan for performing the requirements specified in this Request for Proposal.

1. Provide a manual which describes methods for collecting and storing specimens awaiting pick-up for testing. The manual should detail the quantity required for the specimen for testing (blood, urine, etc.), type of container, how specimen should be stored (e.g. frozen, refrigerated). and any procedures the state agency should follow to prepare specimens for testing.
2. Describe the method of pick-up and transportation of specimens for routine and STAT tests.
3. Describe a sample test order form and billing form.
4. Describe the proposed test reporting procedure and a sample copy of the proposed reporting form.
5. Describe quality-control procedures.
6. Describe the automated test machines and their capabilities.
7. Describe specialized testing and STAT capabilities.
8. Describe any days or times during which the offeror is unable to provide full services.
  - a. Names and locations of laboratories the offeror may use for referral testing services including a listing of which tests may be subcontracted, a general description of the credentials of the subcontracted laboratories, location of the subcontracted laboratories, and the method of transporting the specimens to the subcontracted laboratories.
9. Describe how the services of the pathologist shall be provided.
10. Economic Impact to Missouri - the offeror should describe the economic advantages that will be realized as a result of the offeror performing the required services. The offeror should respond to the following:
  - Provide a description of the proposed services that will be performed and/or the proposed products that will be provided by Missourians and/or Missouri products.
  - Provide a description of the economic impact returned to the State of Missouri through tax revenue obligations.
  - Provide a description of the company's economic presence within the State of Missouri (e.g., type of facilities: sales offices; sales outlets; divisions; manufacturing; warehouse; other), including Missouri employee statistics.
11. Organizational Chart - The offeror should provide an organizational chart showing the staffing and lines of authority for the key personnel to be used. The organizational chart should include (1) The relationship of service personnel to management and support personnel, (2) The names of the personnel and the working titles of each, and (3) Any proposed subcontractors including management, supervisory, and other key personnel.

- The organizational chart should outline the team proposed for this project and the relationship of those team members to each other and to the management structure of the offeror's organization.

12. Along with a detailed organizational chart, the offeror should describe the following:

- How services of the contract will be managed, controlled, and supervised in order to ensure satisfactory contract performance.
- Total Personnel Resources - The offeror should provide information that documents the depth of resources to ensure completion of all requirements on time and on target. If the offeror has other ongoing contracts that also require personnel resources, the offeror should document how sufficient resources will be provided to the State of Missouri.

13. Organizations for the Blind or Sheltered Workshop - If the offeror qualifies as either a nonprofit organization for the blind or a sheltered workshop, or if the offeror is proposing to include products and/or services manufactured, produced, or assembled by such an organization, the offeror should identify the name of the organization in the space below and should attach all supporting documentation, as referenced elsewhere herein.

Name & Address of Organization for Blind/Sheltered Workshop:	_____
--	-------

14. Outside United States - If any products and/or services offered under this RFP are being manufactured or performed at sites outside the United States, the offeror MUST disclose such fact and provide details in the space below or on an attached page.

Are products and/or services being manufactured or performed at sites outside the United States?	Yes _____	No _____
Describe and provide details:		

15. Employee Bidding/Conflict of Interest - Offerors who are employees of the State of Missouri, a member of the General Assembly or a statewide elected official must comply with Sections 105.450 to 105.458 RSMo regarding conflict of interest. If the offeror and/or any of the owners of the offeror's organization are currently an employee of the State of Missouri, a member of the General Assembly or a statewide elected official, please provide the following information.

Name of State Employee, General Assembly Member, or Statewide Elected Official:	
In what office/agency are they employed?	
Employment Title:	
Percentage of ownership interest in offeror's organization:	_____ %

**EXHIBIT E**

**PARTICIPATION COMMITMENT**

If proposing MBE/WBE participation, the offeror must indicate below the percentage of qualified MBE and WBE participation committed to in relation to the total dollar value of the contract. (Note: Products/services provided by MBE/WBEs must provide a commercially useful function related to the delivery of the products/services required herein.) This completed Exhibit must be submitted with the offeror's proposal.

If the offeror is a qualified MBE and/or WBE, the offeror must indicate the percentage of the contract value that the offeror will provide themselves.

NOTE: In order to be a **qualified** MBE or WBE for purposes of this RFP, the MBE/WBE must be certified by the State of Missouri, Office of Administration, Office of Supplier and Workforce Diversity (OSWD).

Name of MBE	Percentage of Total Contract Value	Name of WBE	Percentage of Total Contract Value
1.		1.	
2.		2.	
3.		3.	
4.		4.	
5.		5.	
<b>Total MBE:</b>		<b>Total WBE:</b>	

\_\_\_\_\_  
*Authorized Signature of Offeror*

\_\_\_\_\_  
*Date*

**EXHIBIT F**  
**DOCUMENTATION OF MBE/WBE PARTICIPATION**

If proposing MBE/WBE participation, the offeror must provide a copy of this page to each proposed MBE/WBE. Each MBE/WBE proposed by the offeror in the proposal must complete a copy of this Exhibit separately. If the offeror qualifies as a MBE and/or WBE, the offeror must also complete this Exhibit. Each of these Exhibits completed by a proposed MBE/WBE must be submitted with the offeror's proposal.

*Indicate appropriate business classification(s):*

\_\_\_\_\_ MBE                      \_\_\_\_\_ WBE

Name of MBE/WBE firm: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone #: \_\_\_\_\_  
 City/State/Zip: \_\_\_\_\_ Fax #: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

Describe the products/services you (*as the MBE/WBE company proposed for participation*) will be providing. (Note: Products/services provided by MBE/WBEs must provide a commercially useful function related to the delivery of the products/services required herein.)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Provide the percentage of MBE/WBE participation committed to in relation to the total dollar value of the contract for the products/services you are providing.

\_\_\_\_\_ %

Provide or attach an explanation of the assumptions used in the development of the above percentage.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Each MBE/WBE must provide their State of Missouri, Office of Supplier and Workforce Diversity (formerly Office of Equal Opportunity) certification number below.

*By signing below, the undersigned hereby affirms that the company listed above meets the definition of a MBE or WBE as defined in RSMo 37.020 and has obtained certification from the State of Missouri, Office of Administration, Office of Supplier and Workforce Development (OSWD).*

Name of MBE/WBE Owner: \_\_\_\_\_ Date: \_\_\_\_\_  
 MBE/WBE Certification No.: \_\_\_\_\_ Certification Expiration Date: \_\_\_\_\_  
 Federal Employer Identification No./Social Security No.: \_\_\_\_\_

**Authorized Signatures:**

\_\_\_\_\_  
*MBE/WBE Owner/Rep. Authorized Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Offeror Authorized Signature*

\_\_\_\_\_  
*Date*



**STATE OF MISSOURI  
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT  
TERMS AND CONDITIONS -- REQUEST FOR PROPOSAL**

**1. TERMINOLOGY/DEFINITIONS**

Whenever the following words and expressions appear in a Request for Proposal (RFP) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by the **Division of Purchasing and Materials Management (DPMM)**. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to an RFP or to a contract.
- c. **Attachment** applies to all forms which are included with an RFP to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Proposal Opening Date and Time** and similar expressions mean the exact deadline required by the RFP for the receipt of sealed proposals.
- e. **Offeror** means the person or organization that responds to an RFP by submitting a proposal with prices to provide the equipment, supplies, and/or services as required in the RFP document.
- f. **Buyer** means the procurement staff member of the DPMM. The **Contact Person** as referenced herein is usually the Buyer.
- g. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- h. **Contractor** means a person or organization who is a successful offeror as a result of an RFP and who enters into a contract.
- i. **Exhibit** applies to forms which are included with an RFP for the offeror to complete and submit with the sealed proposal prior to the specified opening date and time.
- j. **Request for Proposal (RFP)** means the solicitation document issued by the DPMM to potential offerors for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- k. **May** means that a certain feature, component, or action is permissible, but not required.
- l. **Must** means that a certain feature, component, or action is a mandatory condition.
- m. **Pricing Page(s)** applies to the form(s) on which the offeror must state the price(s) applicable for the equipment, supplies, and/or services required in the RFP. The pricing pages must be completed and submitted by the offeror with the sealed proposal prior to the specified proposal opening date and time.
- n. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of DPMM.
- o. **Shall** has the same meaning as the word **must**.
- p. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

**2. APPLICABLE LAWS AND REGULATIONS**

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the DPMM.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the RFP or resulting contract shall be in the Circuit Court of Cole County, Missouri.

**3. OPEN COMPETITION/REQUEST FOR PROPOSAL DOCUMENT**

- a. It shall be the offeror's responsibility to ask questions, request changes or clarification, or otherwise advise the DPMM if any language, specifications or requirements of an RFP appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source. Any and all communication from offerors regarding specifications, requirements, competitive proposal process, etc., must be directed to the buyer from the DPMM, unless the RFP specifically refers the offeror to another contact. Such communication should be received at least ten calendar days prior to the official proposal opening date.
- b. Every attempt shall be made to ensure that the offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable procurement process, all offerors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, offerors are advised that unless specified elsewhere in the RFP, any questions received less than ten calendar days prior to the RFP opening date may not be answered.
- c. Offerors are cautioned that the only official position of the State of Missouri is that which is issued by the DPMM in the RFP or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. The DPMM monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among offerors, price-fixing by offerors, or any other anticompetitive conduct by offerors which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The RFP is available for viewing and downloading on the state's On-Line Bidding/Vendor Registration System website. Premium registered offerors are electronically notified of the proposal opportunity based on the information maintained in the State of Missouri's vendor database. If a Premium registered offeror's e-mail address is incorrect, the offeror must update the e-mail address themselves on the state's On-Line Bidding/Vendor Registration System website.
- f. The DPMM reserves the right to officially amend or cancel an RFP after issuance. Premium registered offerors who received e-mail notification of the proposal opportunity when the RFP was established and Premium registered offerors who have responded to the RFP on-line prior to an amendment being issued will receive e-mail notification of the amendment(s). Premium registered offerors who received e-mail notification of the proposal opportunity when the RFP was established and Premium registered offerors who have responded to the proposal on-line prior to a cancellation being issued will receive e-mail notification of a cancellation issued prior to the exact closing time and date specified in the RFP.

**4. PREPARATION OF PROPOSALS**

- a. Offerors **must** examine the entire RFP carefully. Failure to do so shall be at offeror's risk.
- b. Unless otherwise specifically stated in the RFP, all specifications and requirements constitute minimum requirements. All proposals must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFP, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The offeror may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the proposal. In addition, the offeror shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Proposals which do not comply with the requirements and specifications are subject to rejection without clarification.

- d. Proposals lacking any indication of intent to offer an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the RFP.
- e. In the event that the offeror is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an RFP, such an offeror may submit a proposal which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between the DPMM and the offeror, if such offeror is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the RFP. Any such offeror needs to include in the proposal, a complete list of statutory references and citations for each provision of the RFP which is affected by this paragraph.
- f. All equipment and supplies offered in a proposal must be new, of current production, and available for marketing by the manufacturer unless the RFP clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFP.
- h. Prices offered shall remain valid for 90 days from proposal opening unless otherwise indicated. If the proposal is accepted, prices shall be firm for the specified contract period.
- i. Any foreign offeror not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their proposal in order to be considered for award.

## 5. SUBMISSION OF PROPOSALS

- a. Proposals may be submitted by delivery of a hard copy to the DPMM office. Electronic submission of proposals by Premium registered offerors through the State of Missouri's On-Line Bidding/Vendor Registration System website is not available unless stipulated in the RFP. Delivered proposals must be sealed in an envelope or container, and received in the DPMM office located at 301 West High St, Rm 630 in Jefferson City, MO no later than the exact opening time and date specified in the RFP. All proposals must (1) be submitted by a duly authorized representative of the offeror's organization, (2) contain all information required by the RFP, and (3) be priced as required. Hard copy proposals may be mailed to the DPMM post office box address. However, it shall be the responsibility of the offeror to ensure their proposal is in the DPMM office (address listed above) no later than the exact opening time and date specified in the RFP.
- b. The sealed envelope or container containing a proposal should be clearly marked on the outside with (1) the official RFP number and (2) the official opening date and time. Different proposals should not be placed in the same envelope, although copies of the same proposal may be placed in the same envelope.
- c. A proposal submitted electronically by a Premium registered offeror may be modified on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may be modified by signed, written notice which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be modified in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a proposal shall not be honored.
- d. A proposal submitted electronically by a Premium registered offeror may be canceled on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may only be withdrawn by a signed, written notice or facsimile which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be withdrawn in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone, e-mail, or telegraphic requests to withdraw a proposal shall not be honored.
- e. When submitting a proposal electronically, the Premium registered offeror indicates acceptance of all RFP terms and conditions by clicking on the "Submit" button on the Electronic Bid Response Entry form. Offerors delivering a hard copy proposal to DPMM must sign and return the RFP cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the offeror of all RFP terms and conditions. Failure to do so may result in rejection of the proposal unless the offeror's full compliance with those documents is indicated elsewhere within the offeror's response.

## 6. PROPOSAL OPENING

- a. Proposal openings are public on the opening date and at the opening time specified on the RFP document. Only the names of the respondents shall be read at the proposal opening. Premium registered vendors may view the same proposal response information on the state's On-Line Bidding/Vendor Registration System website. The contents of the responses shall not be disclosed at this time.
- b. Proposals which are not received in the DPMM office prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late proposals may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

## 7. PREFERENCES

- a. In the evaluation of proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.

## 8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the offeror and request clarification of the intended proposal. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by an offeror shall be subject to evaluation if deemed by the DPMM to be in the best interest of the State of Missouri.
- c. The offeror is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the State of Missouri. However, unless otherwise specified in the RFP, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the offeror whose proposal (1) complies with all mandatory specifications and requirements of the RFP and (2) is the lowest and best proposal, considering price, responsibility of the offeror, and all other evaluation criteria specified in the RFP and any subsequent negotiations and (3) complies with Sections 34.010 and 34.070 RSMo and Executive Order 04-09.
- e. In the event all offerors fail to meet the same mandatory requirement in an RFP, DPMM reserves the right, at its sole discretion, to waive that requirement for all offerors and to proceed with the evaluation. In addition, the DPMM reserves the right to waive any minor irregularity or technicality found in any individual proposal.
- f. The DPMM reserves the right to reject any and all proposals.
- g. When evaluating a proposal, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a proposal, from an offeror, from offeror's references, or from any other source.
- h. Any information submitted with the proposal, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a proposal and the award of a contract.
- i. Negotiations may be conducted with those offerors who submit potentially acceptable proposals. Proposal revisions may be permitted for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information submitted by competing offerors.

- j. Any award of a contract shall be made by notification from the DPMM to the successful offeror. The DPMM reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by DPMM based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- k. Pursuant to Section 610.021 RSMo, proposals and related documents shall not be available for public review until after a contract is executed or all proposals are rejected.
- l. The DPMM posts all proposal results on the On-line Bidding/Vendor Registration System website for Premium registered offerors to view for a reasonable period after proposal award and maintains images of all proposal file material for review. Offerors who include an e-mail address with their proposal will be notified of the award results via e-mail.
- m. The DPMM reserves the right to request clarification of any portion of the offeror's response in order to verify the intent of the offeror. The offeror is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- n. Any proposal award protest must be received within ten (10) calendar days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (10).
- o. The final determination of contract(s) award shall be made by DPMM.

## 9. CONTRACT/PURCHASE ORDER

- a. By submitting a proposal, the offeror agrees to furnish any and all equipment, supplies and/or services specified in the RFP, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) DPMM's acceptance of the proposal by "notice of award" or by "purchase order." All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.
- c. A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order unless the purchase is equal to or less than \$3,000. State purchases equal to or less than \$3,000 may be processed with a purchase order or other form of authorization given to the contractor at the discretion of the state agency.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the DPMM or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

## 10. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the DPMM.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the RFP.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in Section 34.055 RSMo.
- g. The State of Missouri reserves the right to purchase goods and services using the state purchasing card.

## 11. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

## 12. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

## 13. WARRANTY

- a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the DPMM, (2) be fit and sufficient for the purpose expressed in the RFP, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

## 14. CONFLICT OF INTEREST

- a. Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the proposal the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

## 15. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

## **16. CANCELLATION OF CONTRACT**

- a. In the event of material breach of the contractual obligations by the contractor, the DPMM may cancel the contract. At its sole discretion, the DPMM may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide DPMM within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the DPMM will issue a notice of cancellation terminating the contract immediately.
- c. If the DPMM cancels the contract for breach, the DPMM reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the DPMM deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

## **17. COMMUNICATIONS AND NOTICES**

Any notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the contractor.

## **18. BANKRUPTCY OR INSOLVENCY**

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the DPMM immediately.
- b. Upon learning of any such actions, the DPMM reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

## **19. INVENTIONS, PATENTS AND COPYRIGHTS**

The contractor shall defend, protect, and hold harmless the State of Missouri, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

## **20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the DPMM shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the DPMM until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

## **21. AMERICANS WITH DISABILITIES ACT**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

## **22. FILING AND PAYMENT OF TAXES**

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore offeror's failure to maintain compliance with chapter 144, RSMo may eliminate their proposal from consideration for award.

## **23. TITLES**

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.